

WISHA REGIONAL DIRECTIVE

WISHA Services

Department of Labor and Industries

10.05 ERGONOMICS ACTIVITY DURING INITIAL PHASE-IN

DATE: July 5, 2002

I. Background

The Department of Labor and Industries (L&I) adopted the WISHA Ergonomics Rule, WAC 296-62-051, on May 26, 2000, to reduce hazards that can cause work-related musculoskeletal disorders (WMSDs). The rule includes an extended phase-in period, with the earliest implementation date for large employers in the highest risk industries being July 1, 2002 and the latest date for full implementation for the smallest employers in lower risk industries being July 1, 2006. On March 5, 2002, the Governor directed L&I to implement the rule as scheduled, but to delay citations and penalties for an additional two years after each effective date.

Historically, WISHA ergonomics enforcement has relied upon general standards such as the Accident Prevention Program (WAC 296-24-040), Management Responsibility (WAC 296-24-020) and Safe Place (WAC 296-24-073). With the Ergonomics Rule in place but not yet enforced or fully in effect, guidance is necessary to ensure appropriate and consistent approaches to ergonomics issues during the phase-in period. In addition, guidance is necessary to deal with consultation and other technical assistance requests that are likely to be received.

The rule identifies 14 specific risk factors that fall under six general categories:

- awkward postures;
- high hand force;
- highly repetitive motion;
- repeated impact;
- heavy, frequent or awkward lifting; and
- moderate to high hand-arm vibration.

L&I will provide clear and comprehensive guidance to WISHA enforcement staff before enforcement of the rule begins. This document, however, provides immediate guidance for the period before the rule is enforced.

II. Scope and Application

This policy provides guidance to WISHA enforcement and consultation staff whenever they must address issues involving WMSD hazards and potential ergonomics solutions. It replaces the original WRD 5.05, issued July 7, 2000, and it will remain in effect until replaced.

III. Interpretive Guidance

Can employers be cited for ergonomics issues during the rule's implementation period?

No. There will be no inspections or citations for hazards covered by the ergonomics rule during the implementation period, including the two-year enforcement delay following each of the rule's implementation dates.

Some ergonomics issues (for example, whole body vibration) fall completely outside WAC 296-62-05105. These issues may be addressed only in the most extreme cases and only by using the stringent "general duty" tests involved in citing safe place. Such inspections will be conducted and such violations will be cited only after thorough department review. The "general duty" tests, described in more detail in IV.B.2.C of the WISHA Compliance Manual, require the department to document that the hazard is recognized and that effective, feasible means of abatement are available before any citation can be considered.

No ergonomics issues will be addressed using the Accident Prevention Program standard.

IV. Special Enforcement Protocols

A. How should employee complaints alleging hazardous exposure for issues addressed by the ergonomics rule be addressed during the phase-in period?

Such complaints should normally be addressed by a letter to the complainant indicating that the issues are addressed by the new rule and that L&I will not conduct inspections until after the phase-in period. The CSHO supervisor should notify the employer of the allegation and should refer the issue to WISHA consultation for follow-up with the employer (to offer a consultation or other technical assistance) if the situation warrants it (see the attachments for sample letters to the complainant and the employer).

B. How should employee complaints alleging hazardous exposure for ergonomics issues apparently not covered by the ergonomics rule be addressed during the phase-in period?

Such complaints should normally be addressed using the "phone and fax" method rather than an inspection, and regional supervisors must consult with the ergonomists in WISHA Policy & Technical Services before initiating any further enforcement activity involving ergonomics. Before inspections to identify potential "safe place" violations are initiated, the CSHO supervisor and WISHA P&TS must determine that there is a reasonable likelihood that a violation may exist that warrants such exceptional attention.

C. How should citations be reviewed if regional staff believe they have documented a "safe place" citation for ergonomics issues not addressed by the rule?

Ergonomics citations must not be issued without review by WISHA P&TS prior to the closing conference.

D. How should enforcement staff handle ergonomic issues that they identify in the course of an inspection?

If it appears that the employer may be affected by the requirements of the rule, the inspector (whether an industrial hygienist or a safety and health specialist) should mention the rule and its apparent application in the closing conference and refer the employer to consultation for assistance.

If specific issues are raised, the inspector may choose to address those specific issues in the closing conference, but no citation or penalties may be issued for two years following each implementation date in the rule. Under no circumstances should the rule be described as requiring specific abatement measures, and explicit statements that the employer appears to be in violation of the rule requirements must not be made without consultation with WISHA P&TS.

E. How should construction employers be advised about the possibility of parallel citations under Stute during the phase-in period?

The department will not issue parallel violations to general or upper-tier contractors using the *Stute* analysis until the rule is fully in effect and enforced for all construction employers (July 1, 2008).

V. Special Consultation Protocols

A. How should employer requests for consultations for issues addressed by the ergonomics rule be addressed during the initial phase-in period?

Such requests should be handled in accordance with existing guidance in the WISHA Consultation Manual, with priority given to employers in the industries that will be affected by the rule first (such employers should be treated as “high-hazard” employers as described by the manual). Employers also should be informed of other available resources (workshops, informational sessions, publications, electronic resources, etc.) that may be of assistance to them.

B. How should employer requests to participate in “demonstration projects” be handled?

Employers who contact regional staff to volunteer for participation in “demonstration projects” should be asked for contact information, which should then be passed on (including a regional recommendation, if any) to the ergonomics program manager in WISHA P&TS.

Approved: _____

Michael Wood

Senior Program Manager, WISHA Policy & Technical Services

For further information about this or other WISHA Regional Directives, you may contact WISHA Policy & Technical Services at P.O. Box 44648, Olympia, WA 98504-4648 or by telephone at (360)902-5503. You also may review policy information on the WISHA Website (<http://www.wa.gov/lni/wisha>).

(Date)

(Complainant)

(Non-work Address Line 1)

(Non-work Address Line 2)

Dear (Complainant Name)

Recently, you contacted us about (a) possible ergonomic hazard(s) at (Name of employer's) (Location) workplace. We have notified this employer of the complaint, but have not revealed your identity.

We sent a letter encouraging the employer to:

- evaluate the hazardous conditions addressed in your complaint;
- determine if there is a practical alternative approach to accomplish the work that would minimize employee exposure to any hazardous conditions;
- post the WISHA letter regarding the alleged hazardous condition(s) in a place where employees can easily see it; and
- involve employees in workplace safety and health matters.

I have enclosed a copy of the letter sent to the employer.

WISHA has a rule addressing ergonomic issues in workplaces

The rule includes an extended phase-in period. The implementation dates depend on industry type and employer size. Effective dates range from July 1, 2002 for large high hazard employers to July 1, 2005 for smaller lower risk employers.

On March 5, 2002, the Governor directed the Department to implement the rule as scheduled, but to delay citations and penalties for an additional two years after each effective date.

WISHA cannot enforce the rule at this time. We can only encourage employers to evaluate ergonomic hazards and to minimize employee exposure to such conditions.

If an employer takes action against you for reporting a safety or health hazard

This may be illegal discrimination. While we have not revealed your name, we cannot guarantee that your employer won't find out who filed this complaint. If you believe an employer has taken action against you for reporting hazards or for participating in workplace safety and health activities, you may call or write us. To consider your complaint, we must receive it within 30 days of the alleged discrimination. Call (Investigator name), discrimination investigator, at (Phone number) for more information on discrimination or for help filing a complaint.

Thank you for your efforts to help make this workplace safer. Call me at *(Phone number)* if you have any questions.

Sincerely,

(Name)

(Title)

Enclosure

cc: Compliance Region Files
Central Files

(Date)

(Attn: Employer Representative)

(Employer Name)

(dba: If needed)

(Employer Address Line 1)

(Employer Address Line 2)

Dear (Name):

We have received a complaint about (a) possible ergonomic hazard(s) at your workplace located at (Address). On (Date), we notified (Name of employer representative) by phone of the complaint.

Here is a description of the alleged hazardous condition(s) reported to us

1. (Brief description of the hazardous condition)
2. (Brief description of the hazardous condition)

Please determine whether these hazardous conditions exist

I am providing you this information so that you may have the opportunity to address any hazards that put your employees at risk of injury. I encourage you to evaluate the current condition(s) and to determine if there is a practical alternative approach available to accomplish the task(s) that would minimize employee exposure to any hazardous conditions.

WISHA has a rule addressing ergonomic issues in workplaces

As a result of the high volume of ergonomic related injuries in recent years, the Department adopted a new ergonomics standard on May 26, 2000 (WAC 296-62-051, copy enclosed). The standard addresses the following issues:

- awkward posture;
- high hand force;
- repeated impact;
- highly repetitive motion;
- heavy, frequent and/or awkward lifting; and
- moderate to high hand-arm vibration.

These activities are known to cause musculoskeletal disorders or cumulative trauma disorders (injuries resulting over time from performing certain activities).

The rule's implementation dates depend on industry type and employer size

The rule includes an extended phase-in period (see WAC 296-62-05160). Large employers in higher risk industries must complete employee awareness education and job hazard analysis by July 1, 2002, and complete hazard reduction by July 1, 2003. The smallest employers in lower risk industries must complete employee awareness education and job hazard analysis by July 1, 2005, and complete hazard reduction by July 1, 2006.

On March 5, 2002, the Governor directed L&I to implement the rule as scheduled, but to delay citations and penalties for an additional two years after each effective date.

Your effective dates are as follows

You must complete employee awareness education and job hazard analysis by *(Date)*. Hazard reduction must be completed by *(Date)*.

Notify employees of this complaint

I encourage you to post this letter in a place where your employees can easily see it. It is important to involve employees in workplace safety and health matters. This promotes hazard awareness and prevention as well as showing your employees that you support workplace safety and health.

The complainant's rights

The person who filed this complaint may remain anonymous. He or she will receive copies of all correspondence and documents related to this complaint. Also, the complainant is protected by law from any discrimination resulting from his/her involvement in workplace safety and health activities. For more information on Washington law relating to this type of workplace discrimination see RCW 49.17.160. On our website, go to <http://www.lni.wa.gov/rules/RCWANDWAC/Laws/49%2017.htm>.

Help is available

The Department offers consultation services to employers at no cost to the employer. To discuss or request WISHA consultation services, call your local consultation program at *(Phone number)* or write to the address on the letterhead, ATTENTION: Consultation Supervisor. You may also obtain information about available resources by visiting our website at: <http://www.lni.wa.gov/wisha>.

Thank you for giving this important safety matter your attention. Call me at *(Phone number)* if you have any questions.

Sincerely,

(Name)

(Title)

Enclosure

cc: Compliance Region Files
Central Files
Complainant